

## REMARKS

Applicants respectfully request reconsideration of the present application. Claims 1-27 were pending. Claims 1, 2, 4, 6, 18-22, and 24-25 have been amended. Claims 3 and 23 have been canceled without prejudice. No claims have been added. Claims 1-2, 4-22, and 24-27 remain pending.

**Claims 18-20** stand rejected under 35 U.S.C. § 101.

**Claims 1, 2, 7 - 9, 21, 22, and 25 - 27** stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Number 5,903,730 by Asai et al. (hereinafter "Asai").

**Claims 3 - 5, and 10 -17, 20, 23 and 24** are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 5,903,730 by Asai et al. in view of Tovinkere US 2004/0199919 A1.

### Claim Rejections - 35 USC § 101

Claims 18 - 20 are rejected under 35 U.S.C. §101 because, claims recites a machine accessible medium which is defined in the specification in paragraph [0051] to include carrier waves and signals. Accordingly, Applicants have amended claims 18-20 to set forth a "physical machine-accessible tangible medium." It is respectfully submitted that the amendment has overcome the rejection and withdrawal of which is respectfully requested.

### Claim Rejections - 35 USC § 102(e)

Claims 1, 2, 6 - 9, 21, 22, and 25 - 27 are rejected under 35 U.S.C. §102(e) as being anticipated by Asai et al. US 5,903,730. Applicants respectfully traverse the rejection. Claim 1 as amended sets forth:

determining processor utilization in a data processing system using one of a plurality of **logical processors** in the data processing system;

(Claim 1 as amended; emphasis added)

In contrast, as admitted in the Office Action, Asai fails to disclose logical processors (Office Action, p. 5, lines 4-5). Since Asai does not disclose every limitation set forth in claim 1 as amended, Asai fails to anticipate claim 1 as amended.

Withdrawal of the rejection is respectfully requested.

Claim 2 depends from claim 1 and thus is not anticipated by Asai for at least the reason discussed above with respect to claim 1. Withdrawal of the rejection is respectfully requested.

Claim 6 as amended sets forth:

pausing execution of at least one of the plurality of threads during the determining of the processor utilization.

(Claim 6 as amended; emphasis added)

In contrast, Asai fails to disclose at least the above limitation. As admitted in the Office Action, Asai does not disclose pausing execution of a thread during the determining of the processor utilization (Office Action, p. 5, last paragraph). Thus, Asai fails to anticipate claim 6 as amended. Withdrawal of the rejection is respectfully requested.

Claims 7-9 depend, directly or indirectly, from claim 6, and thus, include every limitation set forth in claim 6. For at least the reason discussed above with respect to claim 6, claims 7-9 are not anticipated by Asai. Withdrawal of the rejection is respectfully requested.

For the reason discussed above with respect to claim 1, claim 21 as amended is not anticipated by Asai. Withdrawal of the rejection is respectfully requested.

For the reason discussed above with respect to claim 6, claim 25 as amended is not anticipated by Asai. Withdrawal of the rejection is respectfully requested.

Claims 22 and 26-27 depend from claims 21 and 25, respectively, and thus, are not anticipated by Asai for the reasons discussed above with respect to claims 21 and 25, respectively. Withdrawal of the rejection is respectfully requested.

### **Claim Rejections - 35 USC § 103(a)**

Claims 3 - 5, and 10 -17, 20, 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Asai et al. US 5,903,730 in view of Tovinkere US 2004/0199919 A1. Claims 3 and 23 have been canceled without prejudice and the subject matter of which have been put into their respective base claims. Applicants respectfully traverse the rejection.

A statement of common ownership of the current application and Tovinkere at the time of the invention of the current application is respectfully submitted below in the current response to disqualify Tovinkere as prior art under 35 U.S.C. §103(c). The rejection under 35 U.S.C. §103(a) is overcome for at least this reason. Applicant respectfully requests the Examiner to withdraw the rejection

**STATEMENT OF COMMON OWNERSHIP**


The present application and the reference, Tovinkere et al. (U.S. Patent Publication No. 2004/0199919 A1) were, at the time the invention of the current application was made, owned by, or subject to an obligation of assignment to, the same entity, Intel Corporation.

### Conclusion

It is respectfully submitted that in view of the amendments and remarks set forth herein, the rejections and objections have been overcome. An Information Disclosure Statement is also submitted with this amendment. Applicants reserve all rights with respect to the application of the doctrine of equivalents. If there are any additional charges, please charge them to our Deposit Account No. 02-2666. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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